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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/678,333

10/03/2000

Mikio Watanabe

0879-0281P

4816

7590

06/10/2005

BIRCH, STEWART, KOLASCH & BIRCH, LLP

P. O. Box 747

Falls Church, VA 22040-0747

EXAMINER

AGGARWAL, YOGESH K

ART UNIT

PAPER NUMBER

2615

DATE MAILED: 06/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Advisory Action</b> <b>Before the Filing of an Appeal Brief</b>	<b>Application No.</b> 09/678,333	<b>Applicant(s)</b> WATANABE, MIKIO	
	<b>Examiner</b> Yogesh K. Aggarwal	<b>Art Unit</b> 2615	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 25 May 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.  
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
 (b) ☐ They raise the issue of new matter (see NOTE below);  
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

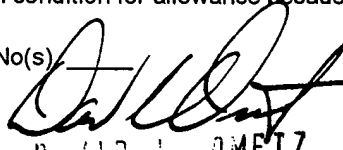
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
 5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
 6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
 7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
 The status of the claim(s) is (or will be) as follows:  
 Claim(s) allowed: \_\_\_\_\_.  
 Claim(s) objected to: \_\_\_\_\_.  
 Claim(s) rejected: \_\_\_\_\_.  
 Claim(s) withdrawn from consideration: \_\_\_\_\_.

#### AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

#### REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See attached paper.  
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s) \_\_\_\_\_  
 13. ☐ Other: \_\_\_\_\_

  
 DAVID L. METZ  
 PRIMARY EXAMINER

***Response to Arguments***

1. Applicant's arguments filed 05/25/2005 have been fully considered but they are not persuasive.

**Examiner interview**

2. Examiner greatly appreciates the applicant for the interview on April 29, 2005 to further prosecute the application. Examiner agrees with the applicant that it was agreed that the rejection of claim 1 would be withdrawn and also no search would be necessary if the claims 3 and 9 were amended as agreed by both parties. However subsequent to the interview the Examiner pointed out the meaning of the word "stop" as used in claims 1 and 9 to be "to keep it from beginning" from the *Webster's New world Dictionary (Third college edition)* and a faxed copy was sent to the applicant on their request.

**Examiner's response:**

3. Regarding claims 1 and 9 applicant argues the following:

a) Shuichi discloses except for transmission equipment 5, a power source is supplied to other circuits and photography housekeeping operations like a lens cover opening is performed by the device. The Examiner asserts that these teachings teach receiving an instruction to capture an image. Applicant respectfully disagrees with these assertions. Applicant maintains that the mere powering of the camera and opening the lens cover is insufficient to teach receiving an instruction to capture an image. Shuichi clearly discloses that the power switch is separate from the image-capturing switch. Thus, the Examiner's reliance on paragraph (0016) that describes the powering of the electronic camera is insufficient to teach or suggest an electronic camera receiving an instruction to capture an image. The Examiner agrees with the applicant but as was

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agreed during the interview, 'instruction to capture an image' was being broadly interpreted as including the operation of powering the camera and opening of a lens cover without which the operation of image taking would not be possible. Therefore, as broadly as claimed, Shuichi does meet the claimed limitation 'instruction to capture an image'.

b) Applicant further argues that there is no teaching or suggestion that is directed to stopping wireless oscillation during the imaging process when the electronic camera receives an instruction to capture an image. Shuichi clearly discloses that upon powering of the electronic camera, no power is supplied to the transmission equipment. These teachings are insufficient to anticipate a communication device for stopping wireless oscillation when the electronic camera receives an instruction to capture an image. The Examiner respectfully disagrees. As mentioned above, subsequent to the interview the Examiner pointed out the meaning of the word "stop" as used in claims 1 and 9 to be "to keep it from beginning" from the *Webster's New world Dictionary (Third college edition)* and a faxed copy was sent to the applicant on their request. Therefore keeping in mind the broadest reasonable interpretation of the claims consistent with this meaning, Shuichi teaches to 'keeping it from beginning' the wireless oscillation during the imaging process when the electronic camera receives an instruction to capture an image.

4. Regarding method claim 3 applicant argues the following:

- a) Applicant argues that claim 3 recites stopping the generation of the carrier that was generated in the first step of the claim. Examiner agrees with applicant's arguments for this 'method claim'.
- b) As discussed above with respect to claims 1 and 9, regarding limitation 'an instruction to record said information is issued' was being broadly interpreted as including the

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operation of powering the camera and opening of a lens cover without which the operation of image taking would not be possible as was agreed during the interview.

Therefore, as broadly as claimed, Shuichi does meet the claimed limitation 'instruction to capture an image.


***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yogesh K. Aggarwal whose telephone number is (571) 272-7360. The examiner can normally be reached on M-F 9:00AM-5:30PM.

5. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Ometz can be reached on (571)-272-7593. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

6. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

YKA  
June 8, 2005

  
DAVID L. OMETZ  
PRIMARY EXAMINER